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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,088	09/09/2003	Matthew Frushour	11924.001	5907

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

FA

Office Action Summary	Application No. 10/660,088	Applicant(s) FRUSHOUR, MATTHEW	
	Examiner Michael J. Kyle	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-11, and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodgers (U.S. Patent No. 3,244,443) in view of Smith, Jr. ("Smith", U.S. Patent No. 5,611,110). With respect to claims 1, 9, 14, 15, 17, 18, and 20, Rodgers discloses a door holder comprising an elongated arm (10), a first attaching means (14), a magnetic head (21) extending longitudinally from a surface of a wall and having a magnetic surface, a metal plate (22) having first and second sides, and second attaching means (24, 26) for attaching the second side of the metal plate to a door. The magnetic head (21) is secured to the first side of the metal plate by a magnetic force of attraction. The magnetic head and magnetic surface each have a circumference in alignment with the circumference of the first end of the arm. The magnetic surface has a circumference in alignment with the circumference of the magnetic head. Rodgers discloses the second side of the plate (22) to be secured to a door by nails (24). Rodgers does not disclose the use of adhesive for this function.
3. Smith teaches an arrangement that includes a face plate (15) fastened to a door. Smith discloses the plate may be fastened to the door by "Nails, adhesives, and other means" (column 5, line 11). Smith thereby establishes a mechanical equivalence between nails and adhesive. It would have been obvious to one having ordinary skill in the art at the time of the invention to use

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either nails or adhesive, as taught by Smith, as these methods of attaching are equivalent and interchangeable within the art.

4. With respect to claims 2, 3, 10, and 11, Rodgers discloses the magnetic surface (outward facing surface of 21) to have a flat surface, and the metal plate (22) has flat surfaces on the first and second sides.

5. With respect to claims 5, 6, 13, and 16, Rodgers discloses the first attaching means to be a screw (14) disposed at the second end (11) of the elongated arm (10) and the magnetic force is broken by pulling the door such that the plate and arm are separated.

6. With respect to claims 8 and 21, Rodgers discloses the screw to have a threaded outside wall.

7. With respect to claims 7 and 19, Rodgers shows the metal plate (22) having a substantially circular configuration, but fails to show the plate to have a rectangular configuration. However, changing the shape of the plate from a circular shape to a rectangular is considered within the level of one having ordinary skill in the art, as this change brings about no new or unexpected result. It would have been obvious to one having ordinary skill in the art at the time of invention to make the plate of a rectangular configuration, as this brings about no new or unexpected result over a circular plate.

8. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodgers in view of Smith as applied to claims 1 and 8 above, and further in view of Troy (U.S. Patent No. 5,575,514). Rodgers shows multiple screw (14) disposed at the second end of the elongated arm. Rodgers does not show a single screw aligned with the elongated arm.

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9. Troy teaches a door stop with an elongated arm (10) having a single screw (20) disposed at a second end thereof, and aligned with the elongated arm. Aligning the screw with the arm allows for a more balanced elongated arm. Using a single screw reduces the amount of parts required for the assembly. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rodgers, such that the elongated arm includes only a single screw, aligned with the elongated arm, at the second end thereof, as taught by Troy, to reduce the amount of parts in the assembly.

Response to Arguments

10. Applicant's arguments filed March 25, 2005, have been fully considered but they are not persuasive. Examiner notes the limitation of a single screw aligned with the elongated arm were introduced by the amendment filed on March 25, 2005. Examiner has cited the Troy patent in the rejections above to show this feature.

11. Applicant argues the rectangular shape of the plate contributes to the overall result of a cheap to manufacture and easy to install door stop. Examiner has maintained the obviousness rejection regarding the limitation of a rectangular door stop. An article claim is directed to the final result of an invention, and is not concerned with how that result was arrived (for example, method of manufacture). In this case, the only difference between the metal plate of the prior art and the instant application is the shape. One having ordinary skill in the art would recognize that merely changing the shape of a metal plate which is attracted by a magnet does not change the over function of the door stop in a novel way. A different shape of the metal plate does not bring about any new or unexpected results.

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12. Applicant argues that Smith fails to teach the overall results of an easy to manufacture and install door stop. Examiner respectfully disagrees. Rodgers teaches the use of nails to fasten the metal plate to the door. Smith teaches the use of either nails or adhesive to attach a metal plate to a door. One having ordinary skill in the art would recognize equivalence between these two means of attachment, and know they are interchangeable. In that Rodgers and Smith disclose each and every limitation of the claim, examiner asserts the overall result will be identical to that of applicant's.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

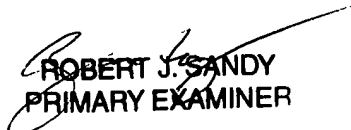
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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


ROBERT J. SANDY
PRIMARY EXAMINER